IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION Nos. 5851, 6399, 10971, 10972, 10973, 10974 AND 10975 OF 2005

WRIT PETITION No: 5851 of 2005

Between:

K. Sivaram, S/o. K. Rajanna Sastry,
Anjaneya Swamy Devasthanam, Kodagattu, Karimnagar District.

..... PETITIONER

AND

1 V. Narasimha Raju, Sri Mavulamma Ammavari Temple,
Bhimavaram, W.G. District.
2 P. Someswara Rao, Sri Pyditalli Ammavari Temple,
Vizianagaram District.
3 P. Pullam Raj, Sri Balabalaji Temple, Appannapalli,
E.G.District.
4 D. Ramalinga Reddy, I/c, Sri Vallidevasena Sameta- Subrahmanyeswara Swamy Temple,
Singarayapalem, Mudinepalli Mandalam Krishna District.
5 B. Prabhakara Rao, P A to E.O., Sri Durga malleswara Swamy

Temple, Vijayawada, Krishna District.
6 The State of A.P., rep. by its Principal Secretary to Government, Revenue (Endowments-I) Department,
Secretariat Buildings, Hyderabad.
7 The Commissioner, Endowments Dept., Tilak Road, Boggulakunta, Hyderabad.
8 S. Kondal Rao, Asst. Commissioner/E.O. Chellapalli Estate Temples, Mopledevi P.O. Krishna Dist.
9 K. Ramakrishna, P.A. to E.O. Sri Bramarambha - Mallikarjuna Swamy Temple, Srisailam, Kurnool Dist.

10 M.R.K. Mohan Rao, Asst. Commissioner E.O, Sri Penchila Narasimha Swamy Temple,
Penchalakona, Nellore District.
11 A. Sankaraiah, PA to E.O. Sri Raja Rajeswara Swamy- Temple, Vemulwada, Karimnagar District.
12 A. Sambi Reddy, Sri Venkateswara Swamy Temple, Valkuntapuram, Tenali, Guntur District.
13 V. Ramakrishnam Raju, Khammam District.
14 M. Subramanya Raju, E.O. Sri Raja Rajeswara Swamy Temple.
15 V. Venkatapathi Raju, Manasa Trust, Vizianagaram District.
(Respondents 8 to 16 are proforma respondents and therefore they are not necessary parties in the W.P)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more in the nature of Writ of Mandamus declaring the orders dt. 07.03.2005 passed in O.A.No.4481/2003 as illegal and arbitrary and consequentially declare that section04 (5) (c) of the Act 30 of 1987 and Clause (iv) Category (5) of Class-I of Rule 3 of A.P. Charitable and Hindu Religious Institutions and Endowments Service Rules as legal and pass such other order or orders.

Counsel for the Petitioner: MR.P.V.S.S.S.RAMA RAO

Counsel for the Respondents: GP FOR ENDOWMENTS

WRIT PETITION No: 6399 of 2005

Between:

K. Babu Rao, S/o Venkanna,
Sri Talupulamma Ammavari Temple, Lova, Tuni Mandal, East Godavari District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep. by its Principal Secretary, Department of Revenue (Endowments), Secretariat Buildings, Hyderabad.
2 The Commissioner, Endowments Department, Boggulakunta, Hyderabad.

3 S. Kondal Rao, s/o Ramalingeswara Rao,
Endowments Department, Visakhapatnam Town and District.
4 R. Krishna Mohan, S/o Basavaiah,
Endowments Department, Nellore Town and District.
5 A. Raghava Charyulu, s/o Narasimha Charyulu,
Endowments Department, Ranga Reddy District,
Boggulakunta, Hyderabad.
6 Ramakrishna, S/o Rangaiah,
Bugga Matham, Endowments Department, Tirupathi, Chittoor District.
7 K. Sivaram, S/o Rajanna Sastry,
Endowments Department, Sri Anjaneyaswamy Temple,
Kondagattu, Karimnagar District.
8 A. Sankaraiah, S/o Rajanna Sastry,
Vemulawada, Endowments Department, Karimnagar District.
9 A. Sambi Reddy, S/o Narsa Reddy,
Endowments Department, Sri Bramaramba Malllikharjunaswamy Temple,
Pedakakani, Guntur District.
10 Ramakrishnam Raju, S/o Narayana Raju,
Khammam Town and District.
11 Narasimha Raju,
Sri Raja Rajeswari Temple, Endowments Department, Dargametta, Nellore.
12 Venkatapathi Raju, s/o Satyanarayana Raju,
Sri Manasa's Trust, Endowments Department, Vijayanagaram Town and District.
13 P. Narasimha Rao,
Guntur and In-charge Deputy Commissioner, Endowments Department, Guntur District.
14 B. Venkataswamy,
Rajahmundry and In-charge Dy. Commissioner, Kakinada, East Godavari District.
15 A. Sheshadri Sharma,
Vijayawada, Krishna District.
16 M.S. Sriharsha,
17 D. Srinivas Rao,
18 N. Vijay Kumar,
West Godavari District. (Respondent Nos. 13 to 18 are not necessary parties to this Writ Petition).

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly in the nature of writ of Mandamus: a) To declare Sec. 4(5) (c) of the A.P. Charitable & Hindu Religious Institutions and Endowments Act, Act XXX of 1987 is violative of The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment)

Order, 1975 and consequently strike down the same by issuing a writ of Mandamus b) To declare that Rule 3 of Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Service Rules, 2002 through G.O.Ms.No. 245, Revenue (Endowments-I) 8th May, 2002 in so far as providing fifth vacancy in a cycle of seven vacancies to the temple employees is violative of The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 c) To declare that all appointments made to the post of Asst. Commissioner U/Sec 4(5) (c) of the Act XXX of 1987 as void and inoperative and have no existence in the eye of law. d) To call for the records connected with judgment dt. 7th March, 2005 in O.A.No. 4901 of 2004 and allow the O.A.No. 4901 of 2004 or issue any other appropriate order or orders as this Hon'ble deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.BALA KRISHNA MURTHY

Counsel for the Respondents: GP FOR ENDOWMENTS

WRIT PETITION No: 10971 of 2005

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Between:

1. K. Ramakrishna, s/o. K. Rangaiah,

Asst. Commissioner Cum Executive Officer

Sri Bugga Mutt, Tirupathi, Chittoor District.

2. V. Ramakrishnam Raju, S/o. Sri Narayana Raju

Asst. Commissioner Endowments Department,

Khammam.

3. A. Sambi Reddy, S/o. Sri Narsa Reddy

Asst. Commissioner Cum Executive Officer,

Sri Brahmaramba Mallikarjuna Swamy Temple,

Pedda Kakani, Guntur District.

4. M.R. Krishna Mohan Rao, S/o. Sri Basavaiah,

Asst. Commissioner Endowments Department, Nellore.

5. K. Venkatapathi Raju, S/o. Sri late Satyanarayana Raju

Asst. Commissioner Cum Executive Oficer, NANSAS,

Vizianagaram Fort, Vizianagaram District.

6. S. Kondala Rao, S/o. Sri Ramalingeswara Rao,

Asst. Commissioner Endowments Department,

Turner's Choultry, Visakhapatnam-1.

….. PETITIONERS.

AND

1. State of A.P., rep., by its Principal Secretary

to Government, Revenue (Endowments) Department,

Secretariat Buildings, Saifabad Hyderabad.

2. The Commissioner, Endowments Department,

Boggulkunta, Hyderabad.

3. V. Narasimha Raju, S/o. Pullam Raju,

Asst. Commissioner and E.O.,

Sri Mavulamma Ammavari Temple, Bhimavaram,

West Godavari District – 534 201.

4. P. Someswara Rao, S/o. Vishwanadha Sarma,

Asst. Commissioner & E.O.

Sri Pydithalli Ammavari Temple,

Vizianagaram District – 531 202.

5. P. Pullam Raju, S/o. Satyanarayana Raju,

Asst. Commissioner & E.O.

Sri Bala Balaji Temple, Appanapalli,

East Godavari District – 533 557.

6. D. Ramalinga Reddy, S/o. Veera Reddy,

I/C Asst. Commissioner & E.O.

Sri Vallidevasena Sameta Subrahamanyeswara Swamy

Temple, Singaraya Palem, Mudinepalli Mandal,

Krishna District – 521 325.

7. D. Prabhakara Rao, S/o. Rama Rao

P.A. to E.O. (Asst. Commissisoner)

Sri Durga Malleswara Swamy Temple

Vijayawada, Krishna District – 520 001.

8. A. Sankaraiah, S/o. Not known

P.A. to E.O., Sri Raja Rajeswara Swamy Temple,

Vemulawada, Karimnagar District.

9. K. Sivaram, S/o. Not known, Asst. Commissioner & J.V.O. Endowments Department, Kurnool.

10. M. Subrahmanya Raju, S/o. Not known

Asst. Commissioner & E.O.

Sri Raja Rajeswara Swamy Temple, Dargametta,

Nellore Town, Nellore District – 524 001.

….. RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction more particularly one in the nature of Writ of Certiorari to call for the records relating to and connected with the common order dated 07.03.2005 in O.A.No.4481 of 2003 on the file of the Hon'ble A.P. Administrative Tribunal, Hyderabad and quash the same as illegal, vitiated by errors apparent on the face of record.

Counsel for the Petitioners: MR.D.V.SITHARAM MURTHY

Counsel for the Respondents: GP FOR ENDOWMENTS

WRIT PETITION(SR) No: 10972 of 2005

Between:

1. B. Venkatswamy, S/o. Venkat Subbaiah,

Asst. Commissioner, Endowments Department,

Rajahmundry, East Godavari District.

2. D. Srinivasa Rao, S/o. D. Subba Rao,

Asst. Commissioner, Endowments Department,

Warangal.

3. M.S. Sriharsha, S/o. Krishna Rao,

Asst. Commissioner, Endowment Department,

Anantapur.

4. N. Vijay Kumar, s/o. N. Raja Rao,

Asst. Commissioner, Endowments Department,

Eluru, West Godavari District.

….. PETITIONERS

AND

1. K. Babu Rao, Asst. Commissioner-cum-

Executive Officer, Sri Talukulamma Ammavari Temple,

Lova, Tuni Mandal, East Godavari District.

2. The Government of A.P., Rep., by its Principal

Secretary, Department of Revenue & Endowments,

Secretariat, Hyderabad.

3. The Commissioner of Endowments Department,

A.P., Boggulakunta, Hyderabad.

….. RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ more in the nature of a Writ of Certiorari calling for the records pertaining to the orders passed in O.A.No.4901 of 2004, dated 07.03.2005 on the file of the Hon'ble A.P.A.T. Hyderabad and quash the same as being erroneous and irregular and consequently direct the official respondents to continue the petitioners as Assistant Commissioners and issue such order writ or order or direction as deemed fit and proper in the interest of justice.

Counsel for the Petitioners: MR.CH.SAMSON BABU

Counsel for the Respondent No.1: MR.N.GURU GOPAL (CAVEATOR)

Counsel for the Respondent Nos.2&3: GP FOR ENDOWMENTS

WRIT PETITION No: 10973 of 2005

Between:

The Commissioner,

Endowments Department,

Tilak Road, Boggulakunta, Hyderabad.

….. PETITIONER

AND

1. V. Narasimha Raju, Asst. Commissioner & E.O.

Sri Mavulamma Ammavari Temple, Bhimavaram,

West Godavari District.

2. P. Someswara Rao, (Retired),

Asst. Commissioner & E.O.

Sri Pyditalli Ammavari Temple, Vizianagaram District.

3. P. Pullam Raju, Asst. Commissioner & E.O.

Sri Balabalaji Temple, Appanapalli, East Godavari District.

4. D. Ramalinga Reddy, I/C Asst. Commissioner & E.O.

Sri Vallidevasena Sameksha Subramanyeswara Swamy Temple, Singarayapalem, Mudinepalli Mandal, Krishna District.

5. B. Prabhakara Rao (Retired), P.A. to E.O.

(Asst. Commissioner), Sri Durga Malleswara Swamy

Temple, Vijayawada, Krishna District.

….. RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Certiorari and calling for the records relating to the order of the Hon'ble A.P. Administrative Tribunal, Hyderabad passed in O.A.No.4481 of 2003, dt.7.3.2005 and quash the same and pass such other order or orders as deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: GP FOR SERVICES-II

Counsel for the Respondent Nos.1,3 & 4: MR.E.S. RAMACHANDRA MURTHY

WRIT PETITION No: 10974 of 2005

Between:

The Commissioner, Endowments Department, Tilak Road, Boggulakunta, Hyderabad.

..... PETITIONER

AND

K. Babu Rao,
Sri Talupalamma Ammavari Temple, Lova, Tuni (M), East Godavari District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of "Certiorari" and calling for the records relating to the order of the Hon'ble A.P. Administrative Tribunal, Hyderabad passed in O.A.No. 4901/2004 dt. 7-3-2005 and quash the same and pass such other order or orders

Counsel for the Petitioner: GP FOR SERVICES II

Counsel for the Respondent: G. MADHURI.

WRIT PETITION NO : 10975 of 2005

Between:

1 K. Ramakrishna, S/o. Sri K. Rangaiah,
Sri Bugga Mutt, Tirupathi, Chittoor District.
2 V. Ramakrishna Raju, S/o. Sri Narayana Raju,
Endowments Department, Khammam.
3 A. Sambi Reddy, S/o. Sri Narsa Reddy,
Sri Brahmaramba Mllikarjuna Swamy Temple, Pedda Kakani, Guntur District.
4 A. Raghava Charyulu, S/o. Sri Narsimha Charyulu,
Endowments Department, Ranga Reddy District.
5 R. Krishna Mohan Rao, S/o. Sri Basavaiah,
Endowments Department, Nellore.

6 K. Venkatapathi Raju, S/o. Sri Late Sayanarayana Raju,
Mansas, Vizianagaram Fort, Vizianagaram District.
7 S. Kondala Rao, S/o. Sri Ramalingeswara Rao,
Endowments Department, Turner's Choultry Visakhapatnam-1.

..... PETITIONERS

AND

1 State of Andhra Pradesh, Rep. by its Principal Secretary to Government, Revenue (Endowments) Department,
Secretariat Buildings, Saifabad, Hyderabad.
2 The Commissioner, Endowments Department, Boggulkunta, Hyderabad.
3 K. Babu Rao, S/o. Venkanna,
Talupulasamma Ammavari Temple, Lova Tuni Mandal, East Godavari District.
4 P. Narasimha Rao, S/o. NOt Known,

Guntur and Incharge Deputy Commissioner, Endowments Department, Guntur.

5 B. Venkata Swamy, S/o. Not Known,
Endowments Department Rajahmundry and INcharge Deputy Commissioner Kakinada, East Godavari District.

6 A. Sheshadri Sharma, S/o. Not Known,
Endowments Department, Srikakulam

7 M.S. Sriharsha, S/o. Not Known,
Endowments Department, Anantapur.

8 D. Srinivas Rao, S/o. Not Known,
Endowments Department, Warangal.

9 N. Vijay Kumar, S/o. Not Known,
Endowments Department, Eluru, West Godavari District.

10 K. Sivaram, S/o. Not Known,
Endowments Department, Kurnool.

11 A. Sankaraiah, S/o. Not Known,
Sri Raja Rajeswara Temple, Vemulawada, Karimnagar District.

12 Narasimha Raju, S/o. Not Known,
Sri Raja Rajeswara Temple, Endowments Department.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction more particularly one in the nature of Writ of Certiorari to call for the records relating to and connected with the Common Order dated 07-03-2005 in O.A.No. 4901 of 2004 on the file of the Honourable A.P. Administrative Tribunal, Hyderabad and quash the same as illegal, vitiated by errors apparent on the face of record and pass such other or further order or orders

Counsel for the Petitioners: MR.D.V.SITARAMAMURTHY

Counsel for the Respondents: GP FOR ENDOWMENTS

The Court made the following:

ORAL ORDER:- (PER GB,J.)

All these Writ Petitions can be disposed of by a common order as they arise out of a common order, dated 07.03.2005, passed by the A.P. Administrative Tribunal in O.A.No.3225 of 2000 and batch. Since, the matter relates to the interpretation of Presidential Order, the O.As. were considered by a Full Bench and a common order was passed.

2. In nutshell the matter that relates for adjudication is the issues framed before the Tribunal as to the promotion channel created under Section 4(5)(c) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act"). When the petitioners were promoted as Assistant Commissioner, Endowments, a challenge was made by the in-service Executive Officers. Number of contentions were raised by the parties concerned, and ultimately, the Tribunal framed the following issues for consideration.

"**ISSUES:-**

In the context of the above, the issues that arise for determination are:

1. Whether Proviso to Sub-Section 3 of Section 29 of the Act is ultra virus the Constitution of India and the Presidential Order.

2. Whether G.O.Ms.No.395, Revenue (Endowments) Department, dated 14.06.2000 is legal.

3. Whether Clause (c) of Sub-section 5 of Section 4 of the Act and Rule 3 of A.P. Charitable and Hindu Religious Institutions and Endowments. Service Rules, 2002 issued in G.O.Ms.No.245, Revenue (Endts.1) Department, dated 8.5.2002, published in a.P. Gazette on 10.5.2002, providing a channel to the Superintendents of the Office of the Commissioner of Endowments and to P.A. to Executive Officer of the private temples for the posts of Assistant Commissioner, are contrary to the Presidential Order.

4. Whether the temple employees are entitled to invoke the jurisdiction of this Tribunal."

3. In respect of first issue the Tribunal taking into consideration, the dicta laid down by the Supreme Court, held that proviso to sub-section 3 of Section 29 of the Act is was not ultravires as the applicants was not able to make out their case for striking down the above provision on the touch stone enunciated in the above judgment.

4. Relating to the principal issue that arose for consideration is issue No.3. The Tribunal did not record any specific finding regarding issue No.3, but recorded a finding on issue Nos.2 and 4, which are ancillary terms. Aggrieved by the order of the Tribunal, the present batch of Writ Petitions has been filed by both the parties to the extent they aggrieved with the said common order.

5. One of the contentions raised by the learned counsel for the petitioners, who are the respondents before the Tribunal, is that the Tribunal has not properly considered issue No.3 with reference to the Presidential Order.

6. Mr. Balakrishna, learned counsel for the respondents, submits that very inclusion of the Personal Assistant to Executive Officer is hit by the provisions of the Presidential Order with reference to Para No.5, as the Government has not formed the local cadre under the provisions of the Presidential Order, and therefore, there cannot be any transfer from the unorganized cadre to organized cadre. He relies on the decisions of the Supreme Court reported in ***K. RADHAKRISHNA REDDY & ANOTHER v GOVERNMENT OF A.P. & OTHERS and V.JAGANNADHA RAO & OTHERS v STATE OF A.P. & OTHERS***.

7. On the other hand, the learned counsel for the petitioners however tried to convince this Court that the findings recorded by the Tribunal are not sustainable inasmuch as the provisions of the Act and the relevant Rules with reference to Presidential Order have not been considered in proper perspective.

8. We have heard the learned counsel for the parties at length on this issue.

9. In view of the facts and circumstances, we are of the considered view that the Tribunal has not adverted to various contentions as submitted before this Court in respect of Section 4(5)(c) of the Act and also the Presidential Order. Even though specific issue was framed under issue No.3, the same was not dealt with. Under those circumstances, we find that the matter requires reconsideration in the hands of the Tribunal duly taking into consideration the submissions as advanced by the Counsel for the parties.

10. Under those circumstances, we set aside the order of the Tribunal to the extent they are carried before this Court by the respective parties and remit the matters for fresh consideration after hearing the parties concerned. The Tribunal shall issue notices to the parties concerned and pass appropriate orders keeping in view the contentions raised by the respective counsel. This exercise shall be done as expeditiously as possible. However, if any promotions are made basing on the existing situation, it is clarified that they shall be subject to the result in the O.As. that are directed to dispose of as supra.

11. With the directions indicated above, all the Writ Petitions are accordingly disposed of. No costs.

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G. BIKAHAPATHY, J

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P.S. NARAYANA, J

Date: 31.03.2005

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To

1 The Registrar,

A.P. Administrative Tribunal, Hyderabad.

2 The Principal Secretary, State of A.P.,
Revenue (Endowments-I) Department,
Secretariat Buildings, Hyderabad.
3 The Commissioner, Endowments Dept., Tilak Road, Boggulakunta, Hyderabad.
4 2 CCs to the GP for Services-II, High Court buildings, Hyderabad (OUT)

5 2 CD copies